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10/777,052	02/09/2004	Meghan M. Barni		3905

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LAW OFFICE OF DAVID H. JUDSON		JARRETT, SCOTT L
15950 DALLAS PARKWAY		

ART UNIT	PAPER NUMBER
3624	

SUITE 225
DALLAS, TX 75248

NOTIFICATION DATE	DELIVERY MODE
01/26/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mail@davidjudson.com

Office Action Summary	Application No. 10/777,052	Applicant(s) BARNI, MEGHAN M.
	Examiner SCOTT L. JARRETT	Art Unit 3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 December 2009*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____ ; the restriction requirement and election have been incorporated into this action.
4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *1 and 5-10* is/are pending in the application.
   5a) Of the above claim(s) _____ is/are withdrawn from consideration.
6)☐ Claim(s) _____ is/are allowed.
7)☒ Claim(s) *1 and 5-10* is/are rejected.
8)☐ Claim(s) _____ is/are objected to.
9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

10)☒ The specification is objected to by the Examiner.
11)☒ The drawing(s) filed on *09 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
12)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____ .
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____ .
4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

This Non-Final Office Action is in response to Applicant's request for continued examination filed December 16, 2009. Applicant's submission amended claims 1 and 7. Currently claims 1 and 5-10 are pending. Claims 2-4 and 11-17 being previously canceled.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 16, 2009 has been entered.

Response to Amendment

Applicant's amendment to the claims necessitated the new grounds of rejection in this office action.

The Objection to Claims 1and 5-10 in the previous office action is withdrawn in response to Applicant's amendments to the claims.

The 35 U.S.C. 112(2) rejection of claims 1 and 5-10 in the previous office action is withdrawn in response to Applicant's amendments to the claims.

Response to Arguments

Applicant's arguments with respect to claims 1 and 5-10 have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

Examiner notes that it was old, well-known and widely practiced for supervisors/supervising entities to utilize a plurality of rules (policies, standards, limits, constraints, constraints, restrictions, prioritization, etc.) to manage/control the trading (swapping, bidding, requesting, etc.) of schedules (shifts, vacations, holidays, days, etc.) between agents (employees, staff, etc.), as evidenced by at least the following:

- Dellevi et al. U.S. Patent No., 6,957,188: Column 2, Lines 55-65, Column 3, Lines 40-55, Column 6, Lines 30-50, and Claim 1 where the system has criteria such as training data or length of time before the trade and uses this to deny or grant the trade.

- O'Brien, U.S. Patent No. 6,587,831: allows a supervisor to deny or

    approve requests... see bottom of column 8...

- deSilva, U.S. Patent Publication No. 2005/0004828 manager involvement

    in shift swapping – Figure 8 and associated text.

- Ossip et al., U.S. Patent Publication No. 2003/0018509 teaches shift

    trading between qualified employees: Paragraphs 8 & 9

- Leamon et al., U.S. Patent No. 7,058,589: Claim 15; Column 3, Lines 65-

    68; Column 3, Lines 1-25

- Hollman, Keeping on Schedule with Workforce Management Software

    (2001) Paragraphs 1-2, 6, Page 3

- Hollman, Titans of Time Management: Paragraph 1, Page 8; Paragraph

    1, Page 9

eWorkforce Management 6.1 includes two optional modules: eSchedule Planner and Aspect Notification Server. The first lets agents request changes to schedules by e-mail and receive an automatic approval or refusal based on predefined rules (e.g., one limiting to ten the number of agents who can be on vacation simultaneously). If a requested change is approved, Aspect Notification Server automatically alerts agents, supervisors and others of the change by e-mail.

Figure 1: Paragraph 5, Page 4

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 1 and 5-9 are rejected under 35 U.S.C. 112, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention.

Regarding Claim 1, Claim1 recites the limitation "if **the** trade does not

violoate...." in Claim 1. There is insufficient antecedent basis for this limitation in

the claim.

Examiner requests clarification as to which of the previous trades the

claim is reference. Is "the" trade the offer for trade of a first work schedule by the

first worker or the work schedule the second worker is permitted to trade or

another trade all together?

Examiner interpreted the claim to read if **a** trade does not violate.... for the

purposes of examination. Appropriate correction required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 and 5-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Based upon consideration of all of the relevant factors with respect to the claim as a whole, claim 1 is held to claim an abstract idea, and is therefore rejected as ineligible subject matter under 35 U.S.C. 101. The rationale for this finding is explained below:

Claim 1 is a method claim. The Supreme Court has indicated that the machine-or-transformation test is "a useful and important clue" for determining whether some claimed inventions are statutory processes under § 101. Bilski v. Kappos, 561 U.S. ___ (2010).

In accordance with the machine-or-transformation test, the claimed process must (1) be tied to a particular machine or apparatus (machine implemented); or (2) particularly transform a particular article to a different state or thing. Furthermore, the use of the particular machine or transformation of the particular article must impose a meaningful limit on the claim scope and must involve more than insignificant "extra-solution" activity or a field-of-use limitation. Interim Examination Instructions For Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101, (August 24, 2009).

Claim 1 does not positively recite a particular machine. The limitation a

method *operative* in a computer network is only in the preamble and the body of

the claim does not depend on the preamble for completeness but, instead, the

process steps are able to stand alone. The limitation "display" implies a display

device, but such a device is only tied to the user input and process output steps.

Such steps are insignificant extra-solution activity that does not impose a

meaningful limit on the claim scope. Further the method steps do not transform

the data (trades, schedules, agents, etc.) to another state or thing. Thus, the

method of claim 1 fails the machine-or-transformation test. Claim 1 is therefore

rejected as being directed to non-statutory subject matter.

Dependent claims 5-9 when analyzed as a whole are held to be patent

ineligible under 35 U.S.C. 101 because the additional recited limitations fail to

establish that the claims are not directed to an abstract idea, as detailed below:

Claims 5-9 fail the machine or transformation test using the same rationale

as applied to claim 1. The additional limitations do not cure the deficiencies of

claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 5-10 are rejected under 35 U.S.C. 102(b) based upon a

public use or sale of the invention, IEX TotalView (Agent Webstation, Supervisor

Webstation) as evidenced by at least the following references:

    I. IEX.com Web Pages (2002), herein after reference A;

    II. IEX.com Web Pages (2003), herein after reference B;

IEX.com Web Pages (2002), teaches a system and method for scheduling

trading in a contact center comprising:

- Rules (work, schedule, constraints, bidding, shift, etc.): Paragraph 1, Page 1; Last Paragraph, Page 1; Bullet 1, Page 3; Column 2, Paragraph 2, Page 4

- Time period: start/end times, Paragraph 1, Page 1

- Limits – min/max days on/off – Paragraph 1, Page 1

- Supervisor Display (you) – Figure 1, Page 1; Bullet 5, Page 3; Figure on Page 4

- Workgroups: Last Bullet, Page 3; Column 2, Paragraph 1, Page 4

IEX.com Web Pages (2003), teaches a system and method for scheduling

trading in a contact center comprising:

- Rules: First & Last Paragraph, Page 3; Bullet 3, Page 5; Column 1,

  Paragraph 1, Page 6; Paragraph 3, Page 7; Paragraph 1, Page 8; Column

  1, Paragraph 3, Page 10; Paragraphs 1-2, Page 19

- Time period rules/constraints: start/end times, Paragraph 1, Page 3;

  Paragraph 3, Page 7; Paragraph 1, Page 8; Column 3, Bullets 1-10, Page

  10; Paragraphs 1-2, Page 19

- Limits – min/max days on/off – Paragraph 1, Page 3; Paragraph 3, Page

  7; Paragraph 1, Page 8; Paragraphs 1-2, Page 19

- Supervisor Display: Figure on Page 3; Paragraph 1, Page 4; Bullet 5,

  Page 5; Figures on Page 6; Last Paragraph, Page 7; Paragraphs 1-2,

  Bullets 4, 5, Page 8; Column 2, Paragraph 2, Page 10; Figure on Page 10

- Workgroup: Paragraph 1, Page 4; Column 2, Paragraph 1, Page 6;

  Column 2, Paragraph 3, Page 10

- Rules based supervisor approval: Paragraphs 1-3, Page 7; Paragraphs 1-

  2, Bullets 4-5, Page 8

- Skills: Paragraph 3, Page 7

Regarding Claim 1 IEX TotalView teaches a workforce management method

operative in a computer network (for enabling entities to trade work schedules),

where the entities are contact center agents (users, labor, staff, personnel, etc.)

that report to a supervisor (leader, boss, manager, administrator, etc.; Reference

B: First and Last Paragraph, Page 3; Paragraphs 1, 3, 4; Page 7; Paragraphs 1-2, Last Two Bullets, Page 8; Paragraphs 1-2, Page 19) comprising:

- configuring a supervisor display (reference B: Figure on Page 3; Paragraph 1, Page 4; Bullet 5, Page 5; Figures on Page 6; Last Paragraph, Page 7; Paragraphs 1-2, Bullets 4, 5, Page 8; Column 2, Paragraph 2, Page 10; Figure on Page 10) by which the supervisor selects which individual agents are permitted to trade work schedules (reference B: Paragraphs 1-3, Page 7; Paragraphs 1-2, Bullets 4-5, Page 8) and by which the supervisor specifies a set of rules (policies, logic, standards, constraints, requirements, etc.; reference A: work, schedule, constraints, bidding, shift, rules/constraints/settings - Paragraph 1, Page 1; Last Paragraph, Page 1; Bullet 1, Page 3; Column 2, Paragraph 2, Page 4; reference B: First & Last Paragraph, Page 3; Bullet 3, Page 5; Column 1, Paragraph 1, Page 6; Paragraph 3, Page 7; Paragraph 1, Page 8; Column 1, Paragraph 3, Page 10; Paragraphs 1-2, Page 19) that allow work schedules to be traded, the set of rules including a least a first rule configured by the supervisor that identifies a maximum number of time units (hours, slots, shifts, days, etc.) per given time period for an agent that is permitted to trade a work schedule (reference A: min/max days on/off – Paragraph 1, Page 1; : start/end times, Paragraph 1, Page 1; reference B: min/max days on/off – Paragraph 1, Page 3; Paragraph 3, Page 7; Paragraph 1, Page 8; Paragraphs 1-2, Page 19), and a second rule configured by the supervisor and that identifies a time period into which a work schedule to be traded must fit in order to satisfy a trade (reference A: start/end times, Paragraph 1, Page 1; reference B: start/end

times, Paragraph 1, Page 3; Paragraph 3, Page 7; Paragraph 1, Page 8; Column

3, Bullets 1-10, Page 10; Paragraphs 1-2, Page 19);

- if a first agent is permitted to trade a work schedule as indicated by the

supervisor selection, offering for trade a first work schedule, being offered by the

first agent, and having associated a second work schedule that the first agent is

willing to accept in trade for the first work schedule (reference A: Figure on Page

1; reference B: First & Last Paragraph, Page 3; Bullet 3, Page 5; Column 1,

Paragraph 1, Page 6; Paragraph 3, Page 7; Paragraph 1, Page 8; Column 1,

Paragraph 3, Page 10; Paragraphs 1-2, Page 19);

- if a second agent is permitted to trade a work schedule as indicated by

the supervisor selection and if a trade does not violate either the first OR second

rule accepting in trade, by the second agent, the first agent's work schedule

(reference A: Figure on Page 1; reference B: First & Last Paragraph, Page 3;

Bullet 3, Page 5; Column 1, Paragraph 1, Page 6; Paragraph 3, Page 7;

Paragraph 1, Page 8; Column 1, Paragraph 3, Page 10; Paragraphs 1-2, Page

19); and

- inhibiting trading of work schedules by the first and second agents if (i)

the first agent is not permitted to trade a work schedule as indicated by the

supervisor selection; (ii) the second agent is not permitted to trade a work

schedule as indicated by the supervisor selection OR (iii) the first/second agents

are permitted to trade a work schedule as indicated by the supervisor selection

but the trade violates either the first or second rule as configured by the

supervisor (inherent purpose/role of rules/constraints on schedule trading:

reference A: Paragraph 1, Page 1; Last Paragraph, Page 1; Bullet 1, Page 3;

Column 2, Paragraph 2, Page 4; reference B: Paragraphs 1-3, Page 7;

Paragraphs 1-2, Bullets 4-5, Page 8; First & Last Paragraph, Page 3; Bullet 3,

Page 5; Column 1, Paragraph 1, Page 6; Paragraph 3, Page 7; Paragraph 1,

Page 8; Column 1, Paragraph 3, Page 10; Paragraphs 1-2, Page 19).

- IEX.com Web Pages (Nov. 2002):

Scheduling

Brochures
>Agent Schedule Bidding

Powerful work rules build a solid foundation for the TotalView system's scheduling processes. You define shift start and end times, minimum and maximum limits on consecutive days on or days off, how to schedule breaks, lunches and other activities, and the degrees of variability in a generated schedule. The TotalView system builds schedules that maximize your

Figure 2: Paragraph 1, Page 1

Schedule Bidding

Schedule bidding allows agents to select their shifts from generated schedules, according to the work and bidding rules you specify. Bidding can be managed by seniority or other ranking criteria, by work team, and by full-time, part-time or other schedule type. Once bidding is complete, the assigned schedules can be applied to future weeks, until the next scheduled bidding cycle. Ideal for contact center environments where contact volumes are more predictable, schedule bidding allows agents maximum choice and predictability for their time at work.

Figure 3: Last Paragraph, Page 1

- IEX.com Web Pages (Feb. 2003):

Schedule Bidding

Schedule bidding allows agents to select their shifts from generated
schedules, according to the work and bidding rules you specify. Bidding can be

Figure 4: Last Paragraph, Page 3

In addition to managing ongoing time off requests, the TotalView® Vacation &
Holiday Planner supports a bidding process that allows agents to periodically
bid for time off based on a seniority, rank, or first-come first-served basis.
The system can be configured to use a series of bidding rounds, permitting
agents to bid for a specified maximum amount of time off in each round. If
the requested time is not available, agents can place themselves on a waiting
list for that specific time slot. The bidding and wait list screens can also be
accessed directly by agents or managed by a supervisor.

Figure 5: Paragraph 1, Page 8

Regarding Claim 10 IEX teaches teach an apparatus (for use in

conjunction with a database of agent work schedule information) comprising:

a processor; code executable by the process for: (system, reference A:

Figure 1, Page 1; Bullet 5, Page 3; Figure on Page 4):

- generating a display from which a supervising entity (person, software,

hardware, business, etc.) manages how a set of agents can trade work

schedules (reference A: Figure 1, Page 1; Bullet 5, Page 3; Figure on Page 4;

reference B: Figure on Page 3; Paragraph 1, Page 4; Bullet 5, Page 5; Figures

on Page 6; Last Paragraph, Page 7; Paragraphs 1-2, Bullets 4, 5, Page 8;

Column 2, Paragraph 2, Page 10; Figure on Page 10); and

- responsive to a selection in the display (for enabling enforcement of a

set of rules that allow work schedules to be traded):

(a) if first approved by the supervising entity,

(b) if agents are members of a given workgroup (reference A: Last Bullet, Page 3; Column 2, Paragraph 1, Page 4; reference B: Paragraph 1, Page 4; Column 2, Paragraph 1, Page 6; Column 2, Paragraph 3, Page 10);

(c) if agents have a same skill attribute (reference B: Paragraph 3, Page 7),

(d) if a given work schedule being traded does not exceed a given number of time units per a given time period (reference B: start/end times, Paragraph 1, Page 3; Paragraph 3, Page 7; Paragraph 1, Page 8; Column 3, Bullets 1-10, Page 10; Paragraphs 1-2, Page 19),

(e) if a given work schedule being traded satisfies a given time constraint, where the given time constraint is configured by the supervising entity and identifies a time period into which a work schedule to be traded must fit in order to satisfy the given time constraint (reference B: min/max days on/off – Paragraph 1, Page 3; Paragraph 3, Page 7; Paragraph 1, Page 8; Paragraphs 1-2, Page 19; start/end times, Paragraph 1, Page 3; Paragraph 3, Page 7; Paragraph 1, Page 8; Column 3, Bullets 1-10, Page 10; Paragraphs 1-2, Page 1); and

(f) if an advance notice requirement for permitting a schedule trade to occur has been respected (reference B: Paragraphs 1-3, Page 7; Paragraphs 1-2, Bullets 4-5, Page 8).

Regarding Claims 5-9, Claims 5-9 recite similar limitations to claims 1 and 10 and are therefore rejected under the same rationale applied to claims 1 and 10.

An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows:

In response to this requirement, please provide the citation and copy of each publication that is a source used for the description of the prior art in the disclosure. For each publication, please provide a concise explanation of that publication's contribution to the description of the prior art.

In response to this requirement, please provide the citation and a copy of each publication that any of the applicants relied upon to develop the disclosed subject matter that describes the applicant's invention, particularly as to developing (rules, policies, standards used to manage, enforce or otherwise control the trading, swapping or bidding of work schedules, shifts or vacations; as well as the provision of a supervisor interface to manage such rules). For each publication, please provide a concise explanation of the reliance placed on that publication in the development of the disclosed subject matter.

For example manuals, user's guides, help files, brochures or other information related to the previous versions of at least IEX's TotalView product

(e.g. manuals, sales presentations, brochures and/or help files from versions 1-

3).

In response to this requirement, please provide the citation and a copy of

each publication that any of the applicants relied upon to draft the claimed

subject matter. For each publication, please provide a concise explanation of the

reliance placed on that publication in distinguishing the claimed subject matter

from the prior art.

For example manuals, user's guides, help files, brochures or other

information related to the previous versions of at least IEX's TotalView product

(e.g. manuals, sales presentations, brochures and/or help files from versions 1-

3).

In response to this requirement, please provide the names of any products or

services that have incorporated the claimed subject matter.

In response to this requirement, please provide the names of any products or

services that have incorporated the disclosed prior art rules, policies, standards

used to manage, enforce or otherwise control the trading, swapping or bidding of

work schedules, shifts or vacations; as well as the provision of a supervisor

interface to manage such rules.

In response to this requirement, please state the specific improvements of the

claimed subject matter in claims 1 and 10 over the disclosed prior art and

indicate the specific elements in the claimed subject matter that provide those

improvements. For those claims expressed as means or steps plus function,

please provide the specific page and line numbers within the disclosure which

describe the claimed structure and acts.

In responding to those requirements that require copies of documents, where

the document is a bound text or a single article over 50 pages, the requirement

may be met by providing copies of those pages that provide the particular subject

matter indicated in the requirement, or where such subject matter is not

indicated, the subject matter found in applicant's disclosure.

Additional evidence for the public use or sale of the invention can be found in

at least the following references:

- IEX Expands web-based access for agents and supervisors (IEX,

    February 11, 2003): Paragraphs 1-3, Page 1

- IEX Unveils agent webstation for totalview workforce management (IEX,

    September, 1999):

- Hollman, Titans of Time Management (2003): Paragraphs 1-2, Page 8

- TotalView Guide Version 3.7: Supervisor Interface: Pages 1-1, 2-1;

    Figure 2; First/Second Agent trading: Figures 1-11, 1-33; Pages 1-22, 1-

    23, Steps 1-11, Pages 1-55, 1-56; Pages 1-55-1-16, 1-105; Supervisor

    Rules: Pages 1-56, 1-84; Schedule trading rules: Pages 1-79-1-82

The fee and certification requirements of 37 C.F.R. § 1.97 are waived for

those documents submitted in reply to this requirement. This waiver extends

only to those documents within the scope of this requirement under 37 C.F.R. §

1.105 that are included in the applicant's first complete communication

responding to this requirement. Any supplemental replies subsequent to the first

communication responding to this requirement and any information disclosures

beyond the scope of this requirement under 37 C.F.R. § 1.105 are subject to the

fee and certification requirements of 37 C.F.R. § 1.97.

The applicant is reminded that the reply to this requirement must be made

with candor and good faith under 37 CFR 1.56. Where the applicant does not

have or cannot readily obtain an item of required information, a statement that

the item is unknown or cannot be readily obtained will be accepted as a complete

response to the requirement for that item.

Applicant is reminded that failure to fully reply to this requirement for

information will result in a holding of abandonment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 5-10 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Narasimhan et al., U.S. Patent Publication No. 2005/0096962

and further view of official notice.

Regarding Claim 1 Narasimhan et al. teach a workforce management

method operative in a computer network (for enabling entities to trade work

schedules), where the entities are contact center agents (users, labor, staff,

personnel, etc.) that report to a supervisor (leader, boss, manager, administrator,

etc.) comprising (Paragraphs 7; Figures 5, 6A, 6B):

- configuring a (supervisor) display by which a user selects which

individual agents are permitted to trade work schedules and by which the user

specifies a set of rules (policies, logic, standards, constraints, requirements, etc.;

Paragraphs 31, 37, 41, 46, 47, 48, 54; Figure 1, Element 122; Figure 3) that

allow work schedules to be traded, the set of rules including a least a first rule

configured by the user that identifies a number of time units (hours, slots, shifts,

days, etc.) per given time period for an agent that is permitted to trade a work

schedule (Paragraph 38), and a second rule configured by the user and that

identifies a time period into which a work schedule to be traded (Paragraphs 41,

49, 50, 54);

      - if a first agent is permitted to trade a work schedule as indicated by the

user selection, offering for trade a first work schedule, being offered by the first

agent, and having associated a second work schedule that the first agent is

willing to accept in trade for the first work schedule (Paragraphs 46-48; Figures 5,

6A, 6B);

      - if a second agent is permitted to trade a work schedule as indicated by

the user selection and if a trade does not violate either the first OR second rule

accepting in trade, by the second agent, the first agent's work schedule

(Paragraphs 46, 47, 48, 54; Figures 5, 6A, 6B); and

      - inhibiting trading of work schedules by the first and second agents if (i)

the first agent is not permitted to trade a work schedule as indicated by the

supervisor selection; (ii) the second agent is not permitted to trade a work

schedule as indicated by the user selection *OR* (iii) the first/second agents are

permitted to trade a work schedule as indicated by the user selection but the

trade violates either the first or second rule as configured by the user

((Paragraphs 46, 47, 48, 54; Figures 5, 6A, 6B).

      Narasimhan et al. does not expressly teach a *supervisor* interface or rule

that identifies a maximum number of time units per period for an agent that is

permitted to trade a work schedule or a rule that identifies a time period into

which a work schedule to be traded must fit into as claimed.

Official notice is taken that supervisors (management, managers, bosses,

administrators, team/shift lead, etc.) creating and applying any of a plurality of

rules (policies, standards, practices, logic, constraints, limits, requirements, etc.)

that govern the trading (swapping, bidding, exchanging, etc.) of work schedules

(days, vacations, holidays, shifts, etc.) is old and very well known - wherein one

skilled in the art would have known how to create and utilize any of the plurality

of well-known rules in–a workforce management system, such as the one taught

by Narasimhan et al.

More specifically setting rules which identifies a maximum number of time

units per period for an agent that is permitted to trade a work schedule or a rule

that identifies a time period into which a work schedule to be traded must fit into

are well known, in the call center industry, as evidenced by at least the following

references:

- IEX.com Web Pages (Nov. 2002):

Scheduling

Brochures
>Agent Schedule Bidding

Powerful work rules build a solid foundation for the TotalView system's scheduling processes. You define shift start and end times, minimum and maximum limits on consecutive days on or days off, how to schedule breaks, lunches and other activities, and the degrees of variability in a generated schedule. The TotalView system builds schedules that maximize your

Figure 6: Paragraph 1, Page 1

Schedule Bidding

Schedule bidding allows agents to select their shifts from generated schedules, according to the work and bidding rules you specify. Bidding can be managed by seniority or other ranking criteria, by work team, and by full-time, part-time or other schedule type. Once bidding is complete, the assigned schedules can be applied to future weeks, until the next scheduled bidding cycle. Ideal for contact center environments where contact volumes are more predictable, schedule bidding allows agents maximum choice and predictability for their time at work.

Figure 7: Last Paragraph, Page 1
- IEX.com Web Pages (Feb. 2003):

Schedule Bidding

Schedule bidding allows agents to select their shifts from generated schedules, according to the work and bidding rules you specify. Bidding can be

Figure 8: Last Paragraph, Page 3
- Hollman, Keeping on Schedule with Workforce Management Software

    (2001) Paragraphs 1-2, 6, Page 3

- Hollman, Titans of Time Management: Paragraph 1, Page 8; Paragraph

    1, Page 9

eWorkforce Management 6.1 includes two optional modules: eSchedule Planner and Aspect Notification Server. The first lets agents request changes to schedules by e-mail and receive an automatic approval or refusal based on predefined rules (e.g., one limiting to ten the number of agents who can be on vacation simultaneously). If a requested change is approved, Aspect Notification Server automatically alerts agents, supervisors and others of the change by e-mail.

Figure 9: Paragraph 5, Page 4

It would have been obvious to one skilled in the art at the time of the invention for the system and method as taught by Narashimhan et al. would have benefited from providing a (supervisor) interface for creating and applying any of a plurality of work schedule trading rules including but not limited to rules which identifies a maximum number of time units per period for an agent that is permitted to trade a work schedule or a rule that identifies a time period into which a work schedule to be traded must fit into in view of the teachings of official notice, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding Claim 5 Narasimhan et al. teach a workforce management system and method further comprising the user specify a (third) rule that restricts the first and second agents from trading work schedules unless the agents are members of a workgroup (worker type, groups, teams, company, division, skill, same location/site, etc.; Paragraphs 41, 52, 54).

Regarding Claim 6 Narasimhan et al. teach a workforce management system and method further comprising the user specifying a (third) rule that restricts the first and second agents from trading work schedules unless the agents share a given skill (e.g. worker type; Paragraphs 41, 52, 54).

Regarding Claim 7 Narasimhan et al. teach a workforce management system and method wherein the time period into which a work schedule to be traded must fit identifies a week period starting on a specified day of the week or on a given date (Paragraphs 38, 46, 49, 50).

Regarding Claim 8 Narasimhan et al. teach a workforce management system and method wherein the time period into which a work schedule to be traded must fit identifies a given calendar (schedule, holidays, set of dates, roster; etc.; Paragraphs 31, 41-42).

Regarding Claim 9, Narasimhan et al. teach a workforce management system and method further comprising the supervisor specifying an time frames and/or times in which the trades that must be respected before a schedule trade may occur (deadlines, opening/closing dates; Paragraphs 49-50, 54).

Narasimhan et al. does not expressly teach the supervisor specifying an advance notice requirement as claimed.

Official notice is taken that providing advance notice to your supervisor prior to taking a vacation is old and well known, further it is old, well known and common for supervisors (employers) to have advance notice policies and/or rules for schedule change requests wherein such rules ensure that the business has adequate time to cover the requested shift/schedule change.

It would have been obvious to one skilled in the art at the time of the invention that the workforce management system and method as taught by Narasimhan et al. with its ability to support any number of well-known and/or commonly user business, shift, trade and/or worker preferences, policies, and rules would have benefited from implementing any of a plurality of well-known rules such as advanced noticed required for vacation in view of the teachings of official notice; the resultant system/method enabling the business adequate notice in which to prepare for the workers request shift/schedule change.

Further since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding Claim 10, claim 10 recites similar limitations to Claims 1 and 5-9 and is therefore rejected using the same art and rationale as applied in the rejection of Claims 1 and 5-9.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT L. JARRETT whose telephone number is (571)272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on 571.272.6782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SCOTT L JARRETT/
Primary Examiner, Art Unit 3624